

**AN ORDINANCE BY ANNE FAUVER
AS SUBSTITUTED BY THE CITY UTILITIES COMMITTEE**

08-O-0555

A SUBSTITUTE ORDINANCE TO AMEND CHAPTER 138, ARTICLE II, DIVISION 7, SECTION 138-61 (ENTITLED, "DUMPSTERS") OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, SO AS TO REQUIRE THAT OWNERS OR PROVIDERS OF DUMPSTERS THAT ARE PLACED IN THE PUBLIC RIGHT-OF-WAY MAINTAIN SAID DUMPSTERS SO THAT THEY ARE FREE OF GRAFFITI; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in regulating, through the lawful exercise of its police powers, the placement of dumpsters in the public right-of-way; and

WHEREAS, the City has previously enacted, in Division 7, Article II, Chapter 138. at Section 138-61, reasonable regulations in the interest of public health, safety and welfare, to regulate the placement of dumpsters in the public right-of-way; and

WHEREAS, graffiti is a public nuisance and is destructive of the rights and values of property owners as well as the City of Atlanta's neighborhoods;

WHEREAS, the City desires to minimize the impact of graffiti in the public right-of-way, and thereby amends Section 138-61; and

WHEREAS, the City further needs to establish a reasonable time period within which the dumpster owner, after being notified that graffiti has been placed on the dumpster located in the public right-of-way, has an opportunity to remove the graffiti.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS
AS FOLLOWS:**

Section 1: Chapter 138, Article II, Division 7, Section 138-61 (h), which reads:

(h) *Placement, appearance and maintenance of dumpster.*

- (1) It shall be the responsibility of the applicant to place the dumpster immediately adjacent to the property identified by the street address stated on the permit application.
- (2) It shall be the responsibility of the provider when transporting or otherwise moving a dumpster, to ensure that no portion of the load is falling, shifting, blowing, dropping or in any way escaping from the dumpster. The provider shall use a tarpaulin or other appropriate cover to secure the top of a dumpster while in transit.

Is hereby amended (in bold) to read as follows:

(h) *Placement, appearance and maintenance of dumpster.*

(1) It shall be the responsibility of the applicant to place the dumpster immediately adjacent to the property identified by the street address stated on the permit application.

(2) **It shall be the responsibility of the provider to make certain that the dumpster remains free of graffiti (as defined at Section 106-801 of this Code) at all times.**

(3) It shall be the responsibility of the provider when transporting or otherwise moving a dumpster, to ensure that no portion of the load is falling, shifting, blowing, dropping or in any way escaping from the dumpster. The provider shall use a tarpaulin or other appropriate cover to secure the top of a dumpster while in transit.

Section 2: Chapter 138, Article II, Division 7, Section 138-61 (J), which reads:

(j) *Enforcement and penalties.* Upon a determination that a person is in violation of this chapter, the commissioner of public works or his designee shall give notice or issue a citation that indicates the person is in violation of a section of this chapter. Should the violation continue after the person receives notice, the commissioner or his designee may cite the violator to appear before the judge of the municipal court for a hearing on the charge of violation of this chapter. Upon a finding that a section of this chapter has been violated, the violator shall be subject to one or more of the following penalties:

(1) The revocation or suspension of a permit issued in accordance with this section.

(2) A fine not exceeding \$1,000.00 a day for a violation of this section.

(3) Imprisonment for a term not exceeding six months.

Is hereby amended (in bold) to read as follows:

(j) *Enforcement and penalties.* Upon a determination that a person is in violation of this chapter, the commissioner of public works or his designee shall give notice or issue a citation that indicates the person is in violation of a section of this chapter. Should the violation continue **for a period of fourteen days** after the person receives notice, the commissioner or his designee may cite the violator to appear before the judge of the municipal court for a hearing on the charge of violation of this chapter. Upon a finding that a section of this chapter has been violated, the violator shall be subject to one or more of the following penalties:

(1) The revocation or suspension of a permit issued in accordance with this section.

(2) A fine not exceeding \$1,000.00 a day for a violation of this section.

(3) Imprisonment for a term not exceeding six months.

Section 3: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

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COUNCILMEMBER ANNE FAUVER

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